

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

FIRST APPEAL NO. 758 OF 2015

Executive Engineer,
Lower Wardha Project Division,
Wardha, Tah. & District Wardha

...APPELLANT

VERSUS

1. Dnyaneshwar Uttamrao Chore,
Aged Major, Occ. Agriculturist,
R/o. Wagda, Tah. Arvi, District Wardha
2. State of Maharashtra,
through District Collector,
Wardha
3. Special Land Acquisition Officer,
Minor Irrigation Works, Wardha,
Tah. and District Wardha

...RESPONDENTS

Shri U.A. Gosavi, Advocate for appellant.
Mrs. R.S. Sirpurkar, Advocate with Shri C.R. Najbile, Advocate
for respondent No. 1.
Shri A.M. Kadukar, A.G.P. for respondent Nos.2 & 3.

**CORAM : PUSHPA V. GANEDIWALA, J.
DATED : AUGUST 10, 2021.**

ORAL JUDGMENT :

Heard.

2. This is an appeal preferred by the appellant/acquiring body against the Judgment and Award dated 17/10/2014 in L.A.C. No. 51/2008 passed by the 2nd Joint Civil Judge, Senior Division, Wardha.

3. Mrs. R.S. Sirpurkar, learned counsel appearing for respondent No.1/claimant submits that in L.A.C. No. 81/2008, whereby land of one of the claimant which is similarly situated with the claimant's land in the present case was acquired under the same Notification dated 30/12/1998 and the reference proceedings in L.A.C. No. 81/2008 was decided on 27/10/2014. It is stated that the V.I.D.C. has accepted that decision and has not challenged the same. Learned counsel submits that the basis for grant of enhancement are similar, the present challenge does not deserve to be entertained.

4. Shri Gosavi, learned counsel for the appellant/acquiring body on instructions, submits that the judgment in L.A.C. No.81/2008 has been accepted by the Corporation. Learned counsel further submits that relying on the judgment in L.A.C. No.81/2008, this Court in First Appeal No. 313/2015 decided the appeal and confirmed the market value of the acquired land and the fruit bearing trees thereon as the judgment in L.A.C. No. 81/2008 was not challenged by the Corporation. Learned counsel also relied on the judgment in the case of **Mahadev Vs.**

Assistant Commissioner/Land Acquisition Officer reported in (2002) 9 SCC 487, wherein the Hon'ble Apex Court held that as the Government accepted the judgment of the District Judge in one of the seven land acquisition cases, there was no point for the High Court to remand the case of the similarly situated land of the claimant for reconsideration in the absence of any finding that the land of the appellant was comparatively inferior.

5. Considering the aforesaid submissions, in the present case, the learned counsel for the respondent No.1/claimant also placed before this Court a comparative chart showing the details about the land acquired, compensation granted by the learned Land Acquisition Officer, number of fruit bearing trees and the compensation enhanced by the Reference Court. Relying on the judgment in the case of L.A.C. No. 81/2008, this Court dismissed the appeals of the Corporation in First Appeal No. 313/2015, as referred above and First Appeal No. 266/2017 which arose out of L.A.C. No. 78/2008.

6. I have also perused the records and proceedings of the Reference Court and the evidence adduced in support of the valuation of the trees and the same found to be just and proper in the absence of any rebuttal evidence on behalf of the acquiring body.

7. Considering the above judgment of the Reference Court in L.A.C. No. 81/2008 is confirmed. The first appeal is dismissed with no order as to costs.

8. The respondent No.1 is permitted to withdraw the balance amount of compensation with accrued interest thereon. The Registry is directed to release the amount in the account of respondent No.1 within a period of two weeks from the date of details of account will be furnished.

JUDGE

**DB*